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RUEHAK/AMEMBASSY ANKARA IMMEDIATE 0025  
RUEHCP/AMEMBASSY COPENHAGEN IMMEDIATE 0013  
RUEHLO/AMEMBASSY LONDON IMMEDIATE 0055  
RUEHSM/AMEMBASSY STOCKHOLM IMMEDIATE 0011  
RUEHVI/AMEMBASSY VIENNA IMMEDIATE 0177  
RUEHIT/AMCONSUL ISTANBUL IMMEDIATE 0016  
RUEAWJA/DOJ WASHDC IMMEDIATE  
RUEKJCS/OSD WASHDC IMMEDIATE  
RUFNSAA/AFSOUTH NAPLES IT IMMEDIATE  
RUFOAOA/USNIC SARAJEVO IMMEDIATE  
RUEKJCS/JCS WASHDC IMMEDIATE  
RHEHNSC/NSC WASHDC IMMEDIATE  
RUEAHLA/HOMELAND SECURITY CENTER WASHDC IMMEDIATE

C O N F I D E N T I A L SECTION 01 OF 03 SARAJEVO 002452

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OSD FOR FLORY, NSC FOR BRAUN AND HINNEN, AFSOUTH FOR  
CURRAN, DOJ FOR FBIHQ, DHS FOR ICE/OIA (SHEA, ALVAREZ),  
VIENNA FOR DHS/ICE

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TAGS: [PTER](#) [PREL](#) [PGOV](#) [BK](#)

SUBJECT: BOSNIA: PROSECUTOR'S CASE STRONG IN LOCAL  
TERRORISM TRIAL

REF: SARAJEVO 732 AND PREVIOUS

Classified By: DCM Judith B. Cefkin. Reasons 1.4 (b) and (d).

11. (C) Summary: The BiH State Prosecutor continues to present a strong evidentiary case in the terrorism trial of Mirsad Bektasevic and Abdulkadir Cesur, particularly the former (reftels). The defense so far has been largely ineffective. The prosecutor is fairly confident he will get a terrorism conviction for Bektasevic, although less certain about Cesur. There is a slim, though genuine, possibility the Court will rule the prosecution has not proved the requisite intent. Bektasevic may also be angling for an insanity defense. The case could be derailed by a mistrial in the so-far unlikely event that the lead panel judge steps down for health reasons. As the first terrorism trial under the new CT law, this is a landmark case for Bosnia, and a major step toward advancing USG CT goals here. End Summary.

Case Summary: Explosives and Threats  
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12. (C) On October 19, 2005, Bosnian law enforcement authorities, acting on USG information, arrested in Ilidza (a suburb of Sarajevo) Mirsad BEKTASEVIC (aka "Maximus") and Abdulkadir CESUR (aka "Turkee"). On November 18, 2005, Bajro IKANOVIC, Amir BAJRIC (aka "Cami") were arrested, also in Sarajevo. On November 24, police apprehended Senad HASANOVIC (aka "Senci"). Bektasevic, Ikanovic, Bajric and Hasanovic are ethnic Bosniaks. Bektasevic holds Swedish citizenship. Cesur is Turkish, but resides in Denmark. Ikanovic, Bajric and Hasanovic are BiH nationals.

13. (U) Bektasevic and Cesur are charged with violating BiH Criminal Code Article 201 by acquiring and possessing explosive material, weapons and other items "with intent to conduct an act of terrorism on the territory of Bosnia and Herzegovina or on the territory of another European country." Ikanovic, the go-between who procured the explosives from Bajric and Hasanovic, is also charged with terrorism. Bajric and Hasanovic were only charged with illegal possession of

explosives. Under a plea bargain worked out with the prosecutor, Bajric got two years in jail for the illegal possession charge in exchange for testifying against the others. The trial in BiH State Court began on July 20. A Bosnian heads the three-judge panel, assisted by another Bosnian and a British judge.

¶4. (C) The Danish government has also brought terrorism charges against Bektasevic and Cesur on the basis of alleged connections with Abdulbasit, who faces trial with three other men for plotting terrorism in Denmark. As a result, Danish interest in this case is high, and a large number of Danish reporters attend each session. Bektasevic is also connected to a U.S. terrorism case underway in Atlanta, and linked to a terrorism investigation in the U.K.

¶5. (U) Among the items confiscated in the raid on the safe house in Ilidza were a semi-automatic pistol with an attached suppresser/silencer, 19 kilos of explosive material and a crudely fashioned suicide belt. Authorities also discovered a video depicting masked men supposedly preparing for an attack against unspecified European targets. The VHS recording includes the men illustrating how to create a timed detonator, while a voice-over is heard saying in English: "Allahu Akbar. Here brothers are preparing for attacks...(against) those who are killing our brothers and Muslims in Iraq, Afghanistan, Shishan and many other countries. These weapons will be used against Europe, against those whose troops are in Iraq and Afghanistan....These two brothers sold their lives to please Allah...they are Muslims. Their time comes."

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#### Strong Physical Evidence and Persuasive Testimony

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¶6. (C) Owing to excellent cooperation among Bosnian law enforcement agencies, as well as Danish and Swedish police, New Scotland Yard and the FBI, the prosecutor's case rests on a wealth of physical evidence, bolstered by police and expert forensic testimony. The Danish Ministry of Justice also provided evidence of the links between Bektasevic and Abdul Basit. On September 25, an FBI video analyst and a British audio analyst gave persuasive expert testimony tying Bektasevic to the video tape found in the safe house. The FBI analyst testified to the high probability that the video was made with the camera that Bektasevic borrowed from his aunt. The British analyst testified that it was "more than likely" that it is Bektasevic's voice on the tape. Bajric's testimony connected Ikanovic to the explosives.

#### The Insanity Defense?

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¶7. (SBU) Defense counsel has eschewed the difficult task of refuting the physical evidence, focusing instead on trying, without much success, to rattle the expert or police witnesses. The defense has also been largely unsuccessful in efforts to discredit Bajric. Council is given to delivering long monologues about why particular testimony or evidence is inaccurate or inadequate, without directly questioning witnesses about elements it contends are in dispute.

¶8. (C) Since the physical evidence points mostly to Bektasevic, it may be that the defense believes Ikanovic and Cesur's alibis ("I don't know anything; I was just in the wrong place at the wrong time") will be sufficient. This strategy could be successful, particularly if Bektasevic, who is expected to take the stand, deliberately attempts through his testimony to exonerate the others. Bektasevic's attorney has requested a psychiatric examination for his client, possibly setting up an "I did it, but I was crazy" defense.

#### Problem of Proving Intent

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¶9. (C) This is the first case brought under the terrorism statute (Article 201) of Bosnia's new 2003 Criminal Code. To secure a conviction for terrorism, the prosecution must demonstrate that the defendants not only acquired the means to commit terrorism (objective intent), but also that the defendants committed or prepared to commit a terrorist act "with the aim of (inter alia) compelling the BiH authorities, the government of another state or an international organization to perform or abstain from performing any act" (subjective intent). Because the investigation yielded no information identifying a specific target, it cannot be proven that the defendants took affirmative steps towards attacking that particular target.

¶10. (C) Further, the voice on the video tape says the men are preparing for attacks against members of the Coalition Forces in Iraq and other countries. It does not explicitly say that they hope to change Iraq policy in these countries. While unlikely, the prosecutor has some concern that, given Bosnia's formalistic legal culture, the Court might find that the intent was simply to punish countries in the Coalition Forces without hope or intent to alter their actions this way. (Note: In contrast, the U.S. terrorism statute, 18 USC 2331 et. seq., holds the prosecution to a lower standard, requiring only that it prove 'the appearance' of subjective intent. End note.)

Lead Judge's Illness Could Cause Mistrial

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¶11. (SBU) Under Bosnia's Criminal Procedure Code, once a case enters the trial phase, some proceeding must occur at least once per month. Otherwise, an automatic mistrial on procedural grounds is declared. The lead panel judge has a heart condition, and was hospitalized briefly in early-mid September. There is a possibility that his health may worsen to the point where he is unable to attend a session before October 24 (one calendar month after the latest session). The prosecution would be forced to start the whole case again before a new judicial panel. The judge appears extremely motivated to keep this from happening, and even left his sick bed to attend the latest sessions so that the one-month requirement would be fulfilled and the foreign experts would not have to be recalled. Nevertheless, a procedural mistrial, although unlikely, remains a possibility.

¶12. (C) Comment: A top USG priority in Bosnia is strengthening law enforcement and legal regimes to deter would-be terrorists from seeking a safe haven or operational staging ground here. The prosecutor and judges have demonstrated a strong commitment to pursuing this landmark case. Regardless of the outcome, its prosecution strengthens domestic institutional capacity to combat terrorism, which advances our CT goals here. The trial could have broader implications as well for cases underway in the U.S., UK and Denmark. End Summary and Comment.  
MCELHANEY